

HOUSE BILL REPORT

HB 1622

As Reported by House Committee On:
Local Government

Title: An act relating to the authority of boundary review boards.

Brief Description: Concerning the authority of boundary review boards.

Sponsors: Representatives Moeller and Jarrett.

Brief History:

Committee Activity:

Local Government: 2/6/07, 2/20/07 [DPS].

Brief Summary of Substitute Bill

- Authorizes Boundary Review Boards (Boards), subject to certain requirements and limitations, to modify proposals by adding territory that would increase the area within a proposal.
- Deletes a provision prohibiting Boards from adding an amount of territory to proposed town annexations that is greater than the original proposal.
- Prohibits Boards from adding an amount of territory to proposed city or town annexations that exceeds 100 percent of the area within the proposal before a Board.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives Simpson, Chair; Eddy, Vice Chair; B. Sullivan and Takko.

Minority Report: Do not pass. Signed by 3 members: Representatives Curtis, Ranking Minority Member; Schindler, Assistant Ranking Minority Member and Ross.

Staff: Ethan Moreno (786-7386).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

Boundary Review Boards

Boundary Review Boards (Boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of Boards in counties with at least 210,000 residents, current law provides that a Board may be created and established in any other county. Board members are appointed by the Governor and local government officials from within the applicable county. Some members are appointed by Boards from nominees of special districts within the applicable county. After initial appointments, all members serve four-year terms.

Upon receiving a timely request for review that meets statutory requirements, and following an invocation of a Board's jurisdiction, a Board must review and approve, disapprove, or modify certain proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, Boards must satisfy public hearing requirements and must attempt to achieve objectives prescribed in statute, including the preservation of natural neighborhoods and communities, and the use of physical boundaries. Generally, decisions on proposed actions must be made within 120 days of the Board receiving a valid request for review.

Board modifications of proposed actions must adhere to legal requirements and limitations. Examples of these provisions are as follows:

- Modifications must be based upon evidence on the record to support a conclusion that the proposed action is inconsistent with one or more of the statutory objectives of Boards.
- The amount of territory that Boards may add to town annexation proposals is limited by the size of the original proposal.
- Boards may not modify the proposed incorporation of a city with an estimated population of 7,500 or more by removing or adding territory from the proposal if that territory constitutes 10 percent or more of the area proposed for incorporation.

Additionally, Board decisions in counties planning under the Growth Management Act (GMA) must be consistent with the planning goals of the GMA and other specified provisions.

Supreme Court Action

On November 9, 2006, the Washington Supreme Court (Court) ruled in *Interlake Sporting Association, Inc. v. Washington State Boundary Review Board for King County, and City of Redmond*, 158 Wn.2d 545 (2006), that the King County Board exceeded its statutory authority when it required the City of Redmond to annex an area that was more than three times larger than the area the city intended to annex. In its ruling, the Court indicated that under current law, the authority of Boards to modify or adjust boundaries of proposed actions is best understood to allow adjustments that do not add to the total acreage.

Summary of Substitute Bill:

Subject to requirements governing Boards and specified limitations, Boards may modify proposals by adding territory that would increase the total area within a proposal. A provision prohibiting Boards from adding an amount of territory to proposed town annexations that is greater than the original proposal is replaced with a provision prohibiting Boards from adding an amount of territory to proposed city or town annexations that constitutes more than 100 percent of the area within the proposal before a Board.

Substitute Bill Compared to Original Bill:

The substitute bill deletes amendatory provisions authorizing Boards to add or delete territory and to adjust the boundary of a proposed annexation to include all or any land located within an unincorporated urban growth area if certain requirements are met. The substitute bill authorizes Boards, subject to requirements governing them, to modify a proposal by adding territory that would increase the total area within the proposal before the Board, and prohibits Boards from modifying proposals for city or town annexations by adding an amount of territory that exceeds 100 percent of the total area within the proposal before the Board.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Boards perform a vital task in Growth Management Act (GMA) planning; it is hoped that Clark County will once again have a Boundary Review Board. Some people were surprised by a Washington Supreme Court ruling that allows Boards to delete territory from proposals under their review, but prohibits them from adding territory. This bill will clarify that Boards can add and delete territory from proposals. This bill is not intended to change annexation policy and amendments may be needed to clarify this intention. Annexations enable the effective and efficient provision of services as a community grows. Boards are an effective strategy in solving boundary disputes. The Legislature has delegated to Boards the authority to determine whether a proposal is consistent with the GMA and this bill will clarify existing law to enable Boards to fulfill their legislative mandate. Boards must be invoked by a qualified party: absent an invocation they will not become involved in a proposal.

(Opposed) The Supreme Court correctly characterized the law pertaining to Boards and the underlying policy. Annexation law requires some consent of the governed to change government. This bill will void this practice and that would be entirely inappropriate. Regarding the Court case, the people of Interlake previously voted against annexation, yet the Board required annexation against their consent. This bill would seemingly allow Boards to make people responsible for pre-annexation debt when they have not consented to the debt or the annexation. Board members are primarily political appointees who operate without

professional prerequisites for serving: they don't necessarily have financial or technical expertise. This bill is bad law, bad policy, and it inappropriately overturns a good decision of the Court.

Persons Testifying: (In support) Suzan Wallace, City of Vancouver; and Michael Marchand; Washington State Association of Boundary Review Boards.

(Opposed) Richard Aramburu, Interlake Sporting, G. Hirschler.

Persons Signed In To Testify But Not Testifying: None.